

has cost the State \$1,401,198.16, over and above the total income of the State, to pay the current expenses of the State for the past two fiscal years, and that under an economical administration. It would be a violent assumption to assume that it would be possible for the State to pay current expenses for the next two fiscal years (with \$1,401,198.16 less than amount spent during the past two years), it matters not how wise and economical it might be.

With a deficit in sight, I can not afford to vote to increase this deficit by one-half million dollars.

MURRAY.

ADJOURNMENT.

On motion of Senator Hume, the Senate, at 5:15 o'clock p. m., adjourned until 10 o'clock tomorrow morning.

APPENDIX.

PETITIONS AND MEMORIALS.

By Senator Senter:

Dallas, Texas, September 2, 1910.

Hon. E. G. Senter, Austin, Texas:

We believe enactment of reasonable bill of lading law will greatly facilitate sale of cotton exchange and movement of crop and will thereby be great benefit alike to farming business and banking interests of the State.

CITY NATIONAL BANK OF DALLAS.

FOURTEENTH DAY.

Senate Chamber,
Austin, Texas,

Saturday, September 3, 1910.

Senate met pursuant to adjournment, Lieutenant Governor A. B. Davidson presiding.

Roll call, quorum being present, the following Senators answering to their names:

Adams.	Kellie.
Alexander.	Mayfield.
Brachfield.	Meachum.
Bryan.	Murray.
Cofer.	Paulus.
Greer.	Peeler.
Harper.	Perkins.
Holsey.	Ratliff.
Hudspeth.	Real.
Hume.	Senter.
Kauffman.	Sturgeon.

Terrell of Bowie.	Ward.
Terrell of McLennan.	Watson.
Terrell of Wise.	Weinert.
Veale.	

Absent—Excused.

Willacy.

Prayer by the Chaplain, Rev. H. M. Sears.

Pending reading of the Journal of yesterday, on motion of Senator Holsey, the same was dispensed with.

(See Appendix for petitions, memorials and committee reports.)

The Chair called the regular order of business, and there being no business under this head, the Chair declared the morning call concluded.

HOUSE BILL NO. 9.

The Chair laid before the Senate as special order for this morning,

House bill No. 9, A bill to be entitled "An Act defining 'bills of lading' and defining the word 'carrier' as these words are used in this act; providing that it shall be the duty of carriers, their officers and agents to issue negotiable bills of lading or straight non-negotiable bills of lading at the request of the shipper, between certain places prescribed in this act, and defining negotiable or order bills of lading and non-negotiable or straight bills of lading, and prescribing certain requirements for bills of lading; making all negotiable bills of lading negotiable by indorsement and delivery in the same manner as bills of exchange or promissory notes, and prohibiting the placing upon negotiable bills of lading any terms which would, in any manner, limit their negotiability; prescribing how bills of lading shall be issued and prohibiting the issuance of negotiable bills of lading in parts or sets; providing that all carriers shall keep posted up in certain places a written instrument authorizing their agents to sign bills of lading; prescribing the duties of carriers and their liability for failure to take up and cancel negotiable bills of lading when the goods or a part thereof have been delivered; prescribing that a court of competent jurisdiction may order goods delivered when negotiable bills of lading have been lost by the giving of a bond by the holder of the lost bill of lading, under certain conditions; prescribing certain duties of local station agents of carriers; prescribing and defining the duties and liabilities of carriers with reference to the consignee in a straight

or non-negotiable bill of lading, and to the holder of an order or negotiable bill of lading, and providing that the carrier shall be estopped to deny the receipt of goods described in a bill of lading, or vary the description thereof, as contained in the bill of lading under certain conditions named in this act; providing that the carrier shall not be liable under the provisions of this act when the goods are taken from his custody by legal process or sold to satisfy the carrier's lien, or sold under the provisions of the law; creating and defining certain criminal offenses for the violation of the provisions of this act, and prescribing penalties therefor; creating and defining certain criminal offenses with reference to the issuance or negotiation of bills of lading, and prescribing penalties therefor, and declaring an emergency."

The question on the bill was on the pending amendment by Senator Cofer (see Journal of yesterday for the amendment).

Senator Murray moved that the Senate resolve itself into Committee of the Whole for the purpose of considering this bill, and that those interested in this bill to be invited to appear before the committee to present their views on the bill.

The motion prevailed, and the Senate accordingly resolved itself into a Committee of the Whole.

IN THE SENATE.

(Lieutenant Governor Davidson presiding.)

INSTRUCTIONS TO SENATE RESCINDED.

Senator Hudspeth here moved that the Senate further instruct the Free Conference Committee on Senate bill No. 7, the insurance bill, as to the action of said committee with reference to an agreement to a certain section relating to the appointment of the members of the board, provided for in said bill.

Senator Watson then moved that the Senate rescind its action on yesterday by which it gave members of the Free Conference Committee specific instructions as to that part of the bill referred to in the above motion.

The motion to rescind prevailed by the following vote:

Yeas—24.

Adams.

Alexander.

Brachfield.
Bryan.
Greer.
Holsey.
Hudspeth.
Kauffman.
Kellie.
Mayfield.
Meachum.
Paulus.
Perkins.

Ratliff.
Real.
Senter.
Sturgeon.
Terrell of Bowie.
Terrell of McLennan.
Terrell of Wise.
Veale.
Ward.
Watson.
Weinert.

Absent.

Cofer.
Harper.
Hume.

Murray.
Peeler.

Absent—Excused.

Willacy.

On motion of Senator Holsey, the Senate resolved itself in a Committee of the Whole Senate for the purpose of further considering House bill No. 9, the bill of lading bill.

IN THE SENATE.

(Lieutenant Governor Davidson presiding.)

FREE CONFERENCE COMMITTEE REPORT ON SENATE BILL NO. 7.

Senator Hudspeth offered the following Free Conference Committee report, and moved that the report be adopted:

Austin, Texas, September 3, 1910.

Hon. A. B. Davidson, President of the Senate, and Hon. John Marshall, Speaker of the House of Representatives.

Sirs: Your Free Conference Committee to consider Senate bill No. 7 with the House amendments, the same being a bill to be entitled "An Act providing conditions, additional to those now imposed by law, upon which insurance companies issuing policies of fire, marine or fire and marine insurance on property in this State shall transact business in this State; to create a State Fire Rating Board, provide for their appointment and fix their powers and compensation; to authorize said board to pass such rules and regulations as are necessary to fix reasonable rates of premiums of fire insurance on property located in this State; to authorize said board to employ such clerical force and other assistance as may be necessary in carrying on the business of the office of

said board; providing an appropriation for the payment of the expense of such clerical force, and other necessary expenses, and the salaries of said board; to authorize said companies to file rates of premiums and commissions to agents with said board and with the agents of said companies, and to keep open for public inspection all such schedules or rates of fire insurance; to authorize the revocation of the license of insurance companies to do business in this State for violation of the orders of said board; to require all persons having to give evidence with reference to the violation of said act, or the orders of said board; and to make mutual fire insurance companies limit their business to the county in which their home office is situated, except where a bond is filed with the Department of Insurance, and declaring the violation of its provisions a misdemeanor, and providing a penalty; to provide for the time when this act shall go into effect and for the repeal of all laws in conflict herewith, and declaring an emergency," have had the same under consideration and recommend that said Senate bill No. 7, with House amendments, do not pass, but that in lieu thereof and as a substitute therefor that the following bill, prepared by your Free Conference Committee, do pass.

HUDSPETH,
BRACHFIELD,
TERRELL of Bowie,
ALEXANDER,
WEINERT,

On the part of the Senate.

VAUGHAN,
CRAWFORD,
CURETON,
STRATTON,
LOONEY,

On the part of the House.

A BILL

To Be Entitled

An Act providing conditions upon which insurance companies writing contracts or policies of insurance against the hazard of fire, may transact business in the State of Texas and providing for the making, promulgation, regulation and control of general basis schedules, insurance rates and premiums and forms of insurance policies; providing certain conditions and limitations on insurance contracts or policies; providing for maximum insurance rates and how companies

may write contracts of insurance at rates lower than the maximum rates and the filing of statements of reduced rates with the State Insurance Board and certified copies thereof with city secretaries and county clerks and fixing the fees of said last two officers for such service; to prevent discrimination in insurance rates or premiums except as provided in this act; to create a State Insurance Board and prescribing the duties and authority of said board and each member thereof and fixing the salaries of the members thereof and providing for their appointment and removal; providing certain duties for and to give certain authority to the Commissioner of Insurance and Banking; appropriating money necessary to carry out the provisions of this act; providing penalties for the violation of certain provisions of this act; fixing the time when this act shall go into effect and repealing Chapter 18, of the General Laws of the State of Texas, passed by the First Called Session of the Thirty-first Legislature and all other laws and parts of laws in conflict therewith and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. Every fire insurance company, every marine insurance company, every fire and marine insurance company, every fire and tornado insurance company, and each and every insurance company of every kind and name issuing a contract or policy of insurance, or contracts or policies of insurance against loss by fire on property within this State, whether such property be fixed or movable, stationary or in transit, or whether such property is consigned or billed for shipment within or beyond the boundary of this State or to some foreign country, whether such company is organized under the laws of this State or under the laws of any other State, Territory or possession of the United States, or foreign country, or by authority of the Federal government, now holding a certificate of authority to transact business in this State, or hereafter granted authority to transact business in this State, shall be deemed to have accepted such certificate and to transact business thereunder, upon condition that it consents to the terms and provisions of this act and that it agrees to transact business in this State subject there-

to; it being intended that every contract or policy of insurance against the hazard of fire shall be issued in accordance with the terms and provisions of this act, and the company issuing the same governed thereby, regardless of the kind and character of such property and whether the same is fixed or movable, stationary or in transit, including the shore end of all marine risks insured against loss by fire.

Sec. 2. That there may be reasonable and just insurance rates in Texas, there is hereby created a board to be known as the "State Insurance Board," which shall be composed of the Commissioner of Insurance and Banking, who shall be chairman thereof, and two members who shall be appointed by the Governor by and with the consent of the Senate, subject to removal as provided for removal of State officers by Article 3528, of the Revised Statutes of Texas; the members of said board other than the Commissioner of Insurance and Banking shall be appointed as herein provided within ten days after this act takes effect; one of said members to be so appointed shall be appointed for a term ending February 1, 1911, and biennially thereafter; the other of said members of said board shall be appointed for a term ending February 1, 1912, and biennially thereafter, and the Governor in making his first appointments to fill these respective offices shall designate which of said officers shall fill the term expiring February 1, 1911, and which of said officers shall fill the term expiring February 1, 1912. The Commissioner of Insurance and Banking, for the purpose of this act, may be referred to as the Commissioner of Insurance.

Sec. 3. The members of said board other than the Commissioner of Insurance and Banking, shall each receive as compensation for their services the sum of twenty-five hundred dollars per annum; and the Commissioner of Insurance and Banking shall receive as compensation or salary for his services under this act, the sum of five hundred dollars per annum in addition to his compensation as now fixed by law. Such salaries of the said two appointed members of said board and the said five hundred dollars salary of the Commissioner of Insurance and Banking, together with the necessary compensation of experts, the clerical force, and other persons employed by said board, and all necessary traveling expenses, and such other ex-

penses as may be necessary, incurred in carrying out the provisions of this act, shall be paid by warrants drawn by the Comptroller upon the State Treasurer upon the order of said board; provided, that the total amount of all salaries and said other expenses shall not exceed the sum of twenty-five thousand dollars annually; and for the purpose of carrying out the provisions of this act there is hereby appropriated out of any money in the State Treasury not otherwise appropriated the sum of twenty-five thousand dollars, or so much thereof as may be necessary, for the fiscal year beginning September 1, 1910, and ending August 31, 1911.

Sec. 4. The State Insurance Board shall have the power and authority and it shall be its duty to prescribe, fix, control and regulate rates of fire insurance, as provided in this act. It shall make and prescribe general basis schedules, together with rules and regulations for determining maximum specific rates therefrom, and furnish each insurance company now doing business in this State, or which may hereafter be granted a certificate of authority to do business in this State, a copy of such general basis schedules; and the said board shall also have authority to alter or amend such general basis schedule in accordance with the provisions of this act. Said board shall also supervise, control and regulate rates of insurance, and shall have authority to alter and revise and to raise and lower such rates, and to alter and revise, raise and lower such general basis schedules or any part thereof, and decide all questions required, authorized or permitted to be passed upon by said board under the provisions of this act. Said board shall also have authority to employ clerical help, experts, inspectors, and such other assistants, and to incur such other expenses as may be necessary in carrying out the provisions of this act not to exceed the sum of \$25,000 per annum, including salaries of the members of the board and all other expenses to be paid out of the State Treasury.

It shall be the duty of said board to ascertain as soon as practicable the annual fire loss in this State; to obtain, to make and maintain a record thereof and collect such data and information with respect thereto as will enable said board to classify the fire losses of this State, the causes thereof and the amount of premiums collected therefor for each class of risks and the amount

paid thereon, in such manner as will be of assistance in determining equitable insurance rates, methods of reducing such fire losses, and reducing the insurance rates of the State.

Sec. 5. For the purpose of facilitating the work of said board, one of the appointed members thereof shall be selected by the board as its secretary, who shall perform the duties which shall appertain to that position, and whose official title shall be "Secretary of the State Insurance Board;" the other of said appointed members thereof shall be selected by said board as fire marshal of the State Insurance Board and his official title shall be "Fire Marshal of the State Insurance Board;" but the said members so selected as secretary and fire marshal as aforesaid, shall receive no compensation for filling their respective positions other than their salaries as members of the State Insurance Board, and shall perform the duties of these respective positions at the will of the board but their expenses incurred in performing the duties of these positions shall be paid as provided in this act.

Sec. 6. It shall be the duty of the fire marshal of the State Insurance Board, who, for the purpose of this act, may be referred to as the State Fire Marshal, at the discretion of the board, and upon the request of the mayor of any city or village, or the chief of a fire department of any city or village; or any fire marshal where a fire occurs within such city or village; or of a county or district judge; or of the sheriff or county attorney of any county, where a fire occurs within the district or county of the officer making such request; or of any fire insurance company, or its general, State or special agent, interested in a loss; or of a policyholder sustaining a loss; or upon the direction of the State Insurance Board to forthwith investigate at the place of such fire, the origin, cause and circumstances of any fire occurring within this State, whereby property has been destroyed or damaged, and shall ascertain if possible whether the same was the result of an accident, carelessness or design, and shall make a written report thereof to the State Insurance Board; and shall also furnish in writing to the county or district attorney of the county in which such fire occurred all the information and evidence obtained by him, including a copy of all the pertinent testimony taken in the case.

Sec. 7. The State Fire Marshal shall have the power to administer oaths, take

testimony, compel the attendance of witnesses and the production of documents, and to enter at any reasonable time, any buildings or premises where a fire has occurred or is in progress, or any place contiguous thereto for the purpose of investigating the cause, origin and circumstances of such fire. And he may enter and examine at any reasonable time any building, structure or place for the purpose of ascertaining the fire hazard, and may remove or require the owner or occupant to remove or safely store combustible material, dangerously exposed or improperly placed therein, and to remove any unnecessary exposure to fire hazard found therein; the said State Fire Marshal is hereby authorized, when necessary, to apply to a court of competent jurisdiction for the necessary writs or orders to enforce the provisions of this section, and in such case he shall not be required to give bond.

Sec. 8. If for any reason the State Fire Marshal is unable to make any required investigation in person he may designate the fire marshal of such city or town, or some other suitable person to act for him; and such person so designated shall have the same authority as is herein given the State Fire Marshal with reference to the particular matter to be investigated by him, and shall receive such compensation for his services as may be allowed by the State Insurance Board. If the investigation of a fire is made at the request of an insurance company or at the request of a policy holder sustaining loss, or at the request of the mayor, town clerk or chief of the fire department of any city, village or town in which the fire occurred, then the expenses of the Fire Marshal, clerical expenses, witnesses and officers' fees incident and necessary to such investigation shall be paid by such insurance company, or such policy holder or such city or town as the case may be; otherwise the expenses of such investigation are to be paid as part of the expenses of the State Insurance Board. Provided, the party or parties, company or companies requesting such investigation shall before such investigation is commenced deposit with the State Insurance Board an amount of money in the judgment of said board sufficient to defray the expenses of said Fire Marshal in conducting such investigation.

Sec. 9. No action taken by the State

Fire Marshal shall effect the rights of any policy holder or any company in respect to a loss by reason of any fire so investigated; nor shall the result of any such investigation be given in evidence upon the trial of any civil action upon such policy, nor shall any statement made by any insurance company, its officers, agents or adjusters, nor by any policy holder or any one representing him, made with reference to the origin, cause or supposed origin or cause, of a fire, to the Fire Marshal or to any one acting for him or under his directions, be admitted in evidence or made the basis for any civil action for damages.

Sec. 10. The said board is authorized and empowered to require sworn statements from any insurance company affected by this act and from any of its officers, directors, representatives, general agents, State agents, special agents and local agents of the rates and premiums collected for fire insurance on each class of risks, on all property in this State during any or all years for the five years next preceding the 1st day of January, 1910, and of the causes of fires, if such be known, if they are in possession of such data and information, or can obtain it at a reasonable expense; and said board is empowered to require such statements for any period of time after the 1st day of January, 1910; and said board is empowered to require such statements showing all necessary facts and information to enable said board to make, amend and maintain the general basis schedules provided for in this act, and the rules and regulations for applying same and to determine reasonable and proper maximum specific rates and to determine and assist in the enforcement of the provisions of this act. The said board shall also have the right, at its discretion, either personally or by some one duly authorized by it to visit the offices whether general, local or otherwise, of any insurance company doing business in this State, and the home office of said company outside of this State, if there be such, and the office of any officers, directors, general agents, State agents, local agents or representatives of such company, and there require such company, its officers, agents or representatives to produce for inspection by said board or any of its duly authorized representatives, all books, records and papers of such company or such agents and representatives; and the said board or its duly authorized

agents or representatives shall have the right to examine such books and papers and make or cause to be made copies thereof; and shall have the right to take testimony under oath with reference thereto, and to compel the attendance of witnesses for such purpose; and any company, its officers, agents or representatives failing to make such statements and reports herein referred to and failing or refusing to permit the examination of books, papers and records as herein required when so called upon, or declining or failing to comply with any provision of this section shall be subject to the penalties provided for in Section 25 of this act.

Sec. 11. Immediately upon the taking effect of this act, or as soon thereafter as practicable, said board is empowered and it is hereby made its duty, to prepare a system of general basis schedules, together with rules for applying the same, for determining fire insurance rates on property in this State; the said general basis schedules and the rules for applying the same to be at all times reasonable; the said board may employ and use any facts and information now in the possession of or in the records of the present State Fire Rating Board, as well as all facts obtainable from and concerning fire insurance companies transacting business in this State, showing the experience of said companies, and charges for premiums on fire insurance, and generally as to the transaction of their said business during the years named in Section 10 of this act or during any other period of time, in order to devise and fix reasonable general basis schedules and rules for applying the same for determining the maximum specific rates. The said board in preparing such general basis schedules showing the rates on all classes or risks insurable by any company in this State, shall show all charges, credits, terms, privileges and conditions which in any wise affect such rates or the application of such rates to specific risks or the cost of insurance; provided, that such schedules and the rules for applying the same shall be furnished by said board to any and all insurance companies affected by this act applying therefor; and the same shall be furnished to any citizen of this State applying therefor upon the payment of the actual cost thereof; that such general basis schedules, and the rules prescribed with reference thereto shall not take effect until said board

shall have entered an order or orders fixing the same, and shall have given notice to all insurance companies affected by this act, authorized to transact business in this State.

Sec. 12. It is further provided that after the adoption and promulgation of the general basis schedules and the rules and regulations for applying the same, as herein provided for by the board, every insurance company writing fire insurance policies within this State shall, within a reasonable time, file with the State Insurance Board its application of said general basis schedules to the specific risks of the State, and the specific rates obtained thereby in accordance with the several provisions of this act; and provided further, that any one or more insurance companies may employ for the application of such general basis schedules and the making of such specific rates, the service of such experts as they may deem advisable for such purpose, but the contract or contracts of employment of such experts shall first be submitted to the State Insurance Board for its approval; provided, further, that the State Insurance Board shall have authority, and it shall be the duty of said board, personally or by its agents, to inspect and supervise the work of said experts in the application of said general basis schedules in the determination of specific rates; which rates shall be the maximum insurance rates that may be charged for insurance in this State; provided, further, that any company may write insurance at a lower rate than the maximum on any risk or class of risks in any particular locality; and provided, further, that any company making any such reduction shall forthwith file with the State Insurance Board a statement of such reduction, showing the maximum rate and the reduced rate thereon, such statement to be on forms prescribed by the board and signed by the State or general agent of such company, which statement when so filed, shall be subject to the inspection of the public. The State Insurance Board, upon the filing of such statement, shall file a certified copy thereof with the city secretary of any city, town, or village of such locality, if there be such, or if there be no such officer, then the board shall file a certified copy thereof with the county clerk of the county of such locality which said statement when so filed, shall be subject to public inspection. The county clerk or city secretary

aforsaid shall receive as compensation the sum of ten cents for each such statement filed by him, which shall be paid to him by the State Insurance Board out of funds which shall be deposited with the State Insurance Board for such purpose by any such company; provided further, that said company or companies shall file with the board copies of all maps and copies of the analysis of all applications of said general basis schedules to the specific risks of this State, if required to do so by the board. And it shall be the duty of the expert or experts representing the insurance companies, or any insurance company in this State to furnish at the date of the inspection to the owners of all risks inspected for the purpose of applying the general basis schedules provided for in this act, a copy of such inspection report showing all defects that operate as charges to increase the insurance rate.

It is further provided that the maximum specific rates so made by a company or companies for any city, town, village or locality, shall not take effect, and such company or companies shall not write insurance thereunder until such maximum specific rates shall have been approved by the board; the board shall have the authority to reject said maximum specific rates so made or any part thereof, or to alter, amend, modify or change the same; or to permit such maximum specific rates to become effective for a limited time, or any modification or change thereof for a limited time in its discretion; provided, however, that the said board shall have authority in its discretion to permit the said company or companies to apply the said schedules of basis rates to risks other than mercantile and special hazards without having first submitted the maximum specific rates so made to said board for approval. But such rates that the board may permit any company or companies to apply without the board's approval shall always be subject to review by the board and by the proper showing of any policyholder or holders may be reduced. It is further provided that all changes made by any company in the maximum specific rates made by it in applying the general basis schedules shall be subject to the review of the board for its approval or disapproval, and shall be reported to the board in

such manner and form as may be prescribed by the board. Provided, further, that any insurance company or companies affected by this act shall have the right at any time to petition the board for an order changing or modifying the general basis schedules, or the application of the general basis schedules to the specific risks; and the board shall consider such petition as provided in this act, and enter such order as the board may deem just and equitable to such company or companies, to competing companies and to the public. Provided, further also, that any company or any policyholder affected by this act shall have the right to apply to the board for an order reducing the maximum specific rates of insurance on property within this State, and the board shall consider such application and enter such order with reference thereto as it may deem just and equitable to such company, to competing companies and to the public.

The board shall also have the power and authority to give each city, town, village, or locality credit for each and every hazard they may reduce or entirely remove, also for all added fire fighting equipment, increased police protection, or any other equipment or improvement that has a tendency to reduce the fire hazard of any such city, town, village or locality and also to give credit for a good fire record of each city, town, village or locality. The board shall also have the power and authority to compel any company to give any and all policyholders credit for any and all hazards that said policyholder or holders may reduce or remove. Said credit shall be in proportion to such reduction or removal of such hazard, and said company or companies shall return to such policyholder or holders such proportional part of unearned premiums charged for such hazards that may be reduced or removed.

Sec. 13. It is provided that after the approval by the board of the maximum specific rates made by the insurance companies hereunder, that thereafter when a policy of insurance is written that the policyholder shall be furnished by the company with a copy of the analysis of his maximum specific rate showing the items of charge and credit which determine the rate unless such policyholder has heretofore been furnished with such analysis of his rate; it is also further provided that the general basis

schedules and all maximum specific rates and local tariffs filed in accordance with the provisions of this act shall be open to the inspection of the public, and each local agent shall have and exhibit to the public copies thereof relative to all risks upon which he is authorized to write insurance.

Sec. 14. It is further provided that until the general basis schedules herein provided for shall have been promulgated by the board, and the maximum specific rates thereunder determined, all companies subject to the provisions of this act shall write insurance at the rates now in force in this State, including the reductions heretofore ordered by the State Fire Rating Board in localities where such specific rates have been determined and filed with the board; provided, the general basis schedules from which such specific rates have been made, and such specific rates shall be subject to the authority of the board under this act. Provided further, however, that wherever such specific rates have not been determined then the board shall designate at what rate the company shall write insurance; provided, however, that all rates under this section shall be maximum rates, and the companies shall have the right to write insurance below such rates by complying with the terms and conditions of Section 12 of this act.

Sec. 15. The said board shall have authority, upon reasonable notice, not exceeding thirty days, of its intention to do so, to alter, amend or revise said general basis schedules promulgated by it, or the specific maximum rates approved or ordered by it, as herein provided, and to give reasonable notice of such alteration, amendment or revisions to the public or to any company or companies affected thereby. Such altered, amended or revised schedules or maximum rates shall be the schedules or maximum rates to be thereafter charged for insurance by any company in this State; provided, that the board may order changes to be made to meet unusual conditions in any particular locality, should such conditions exist or arise, by giving similar notice to the public or to any company affected thereby. Provided, the changes or amendments made to the general basis schedules shall apply only to policies of insurance written after the order of the board making such changes or amendments becomes effective. Provided further, that no policy existing prior to the taking effect of such changes or amendments to the gen-

eral basis schedules shall be affected by such changes or amendments unless there shall be a change in the hazard of the risk necessitating a change in the rate applicable to such risk, in which event such policy shall be affected by such changes or amendments unless there shall be a change in the hazard of the risk necessitating a change in the rate applicable to such risk, in which event such policy shall be subject to the new rates applicable under the changed or amended general basis schedules.

Sec. 16. It shall be the duty of the State Insurance Board to make, promulgate and establish uniform policies of insurance applicable to the various risks of this State, copies of which uniform policies shall be furnished each company doing business in this State, or which may hereafter do business in this State. That after such uniform policies shall have been established and promulgated and furnished the respective companies doing business in this State, such companies shall, within sixty days after the receipt of such forms of policies, adopt and use said form or forms and no other; and all companies which may commence business in this State after the adoption and promulgation of such forms of policies, shall adopt and use the same and no other forms of policies. The said Insurance Board shall also prescribe all standard forms, clauses and indorsements used on or in connection with insurance policies. All other forms, clauses and indorsements placed upon insurance policies shall be placed thereon subject to the approval of the board. The board shall also have authority in its discretion to change, alter or amend such form or forms of policy or policies, and such clauses and indorsements used in connection therewith upon giving notice and proceeding in accordance with Section 20 of this act.

Sec. 17. Any provision in any policy of insurance issued by any company subject to the provisions of this act to the effect that if said property is incumbered by a lien of any character or shall after the issuance of such policy become incumbered by a lien of any character, that such incumbrance shall render such policy void, shall be of no force and effect, and any such provision within or placed upon any such policy shall be absolutely null and void.

Sec. 18. No company subject to the provisions of this act may issue any policy or contract of insurance covering property in this State, which shall contain any clause or provision requiring

the assured to take out or maintain a larger amount of insurance than that expressed in such policy, nor in any way providing that the assured shall be liable as coinsurer with the company issuing the policy for any part of the loss or damage which may be caused by fire to the property described in such policy, and any such clause or provision shall be null and void and of no effect; provided, that it may be optional with the assured to accept a policy or contract of insurance containing a coinsurance clause or provision when a reduction in the rate of insurance on the property described in such policy is the consideration named in such clause, and when so accepted the coinsurance clause or provision shall be binding on the assured.

Sec. 19. It is provided that any citizen or number of citizens of this State, or any policyholder or policyholders, or any insurance company affected by this act, or any board of trade, chamber of commerce or other civic organization, or the civil authorities of any town, city or village, shall have the right to file a petition with the Insurance Board setting forth any cause of complaint that they may have as to any order made by this board, or any schedule promulgated by this board, or as to any specific rate approved by this board, and that they shall have the right to offer evidence in support of the allegations of such petition by witnesses, or by depositions or by affidavits; that upon the filing of such petition, the party complained of, if other than the board, shall be notified by the board of the filing of such petition and a copy thereof furnished the party or parties, company or companies, of whom complaint is made, and the said petition shall be set down for a hearing at a time not exceeding thirty days after the filing of such petition and the board shall hear and determine said petition; but it shall not be necessary for the petitioners or any one for them to be present to present the cause to the board, but they shall consider the testimony of all witnesses, whether such witnesses testify in person, or by deposition, or by affidavits, and if it be found that the complaint made in such petition is a just one, then the matters complained of shall be corrected or required to be corrected by said board.

Sec. 20. The State Insurance Board shall give the public and all insurance companies, to be affected by its orders or decisions, reasonable notice thereof, not exceeding thirty days, and an op-

portunity to appear and be heard with respect to the same; which notice to the public shall be published in one or more daily papers of the State, and such notice to the insurance company or companies to be affected thereby shall be by letter deposited in the postoffice, addressed to the State or general agent of such company or companies, if the address of such State or general agent be known to the board, or, if not known, then such letter shall be addressed to some local agent of such company or companies, or, if the address of a local agent be unknown to the board, then by publication in one or more of the daily papers of the State, and the board shall hear all protests or complaints from any insurance company or any citizen, or any city, town or village, or any commercial or civic organization as to the inadequacy or unreasonableness of any rates fixed by it or approved by it, or as to the inadequacy or unreasonableness of any general basis schedules promulgated by it or the injustice of any order or decision by it; and if any insurance company, or other person, or commercial or civic organization, or any city, town or village, which shall be interested in any such order or decision, shall be dissatisfied with any regulation, schedule or rate adopted by such board, such company or person, commercial or civic organization, city, town or village shall have the right, within thirty days after the making of such regulation or order, or rate, or schedule, or within thirty days after the hearing above provided for, to bring an action against said board in the district court of Travis county to have such regulation or order or schedule or rate vacated or modified; and shall set forth in a petition therefor the principal ground or grounds of objection to any or all of such regulations, schedules, rates or orders; in any such suit, the issue shall be formed and the controversy tried and determined as in other civil cases, and the court may set aside and vacate or annul any one or more or any part of any of the regulations, schedules, orders or rates promulgated or adopted by said board, which shall be found by the court to be unreasonable, unjust, excessive or inadequate, without disturbing others. No injunction, interlocutory order or decree suspending or restraining directly or indirectly the enforcement of any schedule, rate, order or regulation of said board shall be granted.

Provided, that in such suit, the court, by interlocutory order, may authorize the writing and acceptance of fire insurance policies at any rate, which in the judgment of the court is fair and reasonable during the pending of such suit, upon condition that the party to such suit in whose favor the said interlocutory order of said court may be, shall execute and file with the Commissioner of Insurance and Banking a good and sufficient bond to be first approved by said court, conditioned that the party giving said bond will abide the final judgment of said court and will pay to the Commissioner of Insurance and Banking whatever difference in the rate of insurance it may be finally determined to exist between the rate as fixed by said board complained of in such suit, and the rate finally determined to be fair and reasonable by the court in said suit; and the said Commissioner of Insurance and Banking, when he receives such difference in money, shall transmit the same to the parties entitled thereto.

Whenever any action shall be brought by any company under the provisions of this section within said period of thirty days, no penalties nor forfeitures shall attach or accrue on account of the failure of the plaintiff to comply with the orders, schedules, rates or regulations sought to be vacated in such action until the final determination of the same.

Either party to any such action, if dissatisfied with the judgment or decree of said court, may appeal therefrom as in other civil cases. No action shall be brought in any court of the United States to set aside any orders, rates, schedules or regulations made by said board under the provisions of this act until all of the remedies provided herein shall have been exhausted by the party complaining.

If any insurance company affected by the provisions of this act shall violate any of the provisions of this act, the Commissioner of Insurance shall, by and with the consent of the Attorney General, cancel its certificate of authority to transact business in this State.

Sec. 21. No company shall engage or participate in the insuring or reinsuring of any property in this State against loss or damage by fire except in compliance with the terms and provisions of this act; nor shall any such company knowingly write insurance at any rate higher than the maximum rates herein provided for and it shall be unlawful

for any company so to do. And it shall be unlawful for any company, or its officers, directors, general agents, State agents, special agents, local agents, or its representatives, to grant or contract for any special favor or advantage in the dividends or other profits to accrue thereon, or in commissions or division of commissions, or any position, or any valuable consideration, or any inducement not specified in the policy contract of insurance; nor shall such company give, sell or purchase, offer to give, sell or purchase, directly or indirectly, as an inducement to insure or in connection therewith, any stocks, bonds or other securities of any insurance company or other corporation, partnership, or individual, or any dividends or profits accrued or to accrue thereon or anything of value whatsoever, not specified in the policy; but nothing in this section or in this act shall be construed to prohibit a company from sharing its profits with its policyholders; provided, that such agreement as to profit sharing shall be placed on or in the face of the policy, and such profit sharing shall be uniform and shall not discriminate between individuals or between classes; provided, however, that no part of the profit shall be paid until the expiration of the policy.

Any company, or any of its officers, directors, general agents, State agents, special agents, local agents or its representatives, doing any of the acts in this section prohibited, shall be deemed guilty of unjust discrimination; provided, however, that if any agent or company shall issue a policy without authority, and any policyholder holding such policy shall sustain a loss or damage thereunder, said company or companies shall be liable to the policyholder thereunder, in the same manner and to the same extent as if said company had been authorized to issue said policy, although the company issued said policy in violation of the provisions of this act. But this shall not be construed to give any company the right to issue any contract or policy of insurance other than as provided in this act.

Sec. 22. No person shall knowingly receive or accept from any insurance company or from any of its agents, sub-agents, brokers, solicitors, employes, intermediaries or representatives, or any other person, any rebate of premium payable on the policy, or any special favor or advantage in the dividends or

other financial profits accrued or to accrue thereon or any valuable consideration, position or inducement not specified in the policy of insurance, and any person so doing shall be guilty of a violation of the provisions of this section, and shall be punished by a fine of not exceeding one hundred dollars, or by imprisonment in the county jail for not exceeding ninety days, or by both such fine and imprisonment.

Sec. 23. The provisions of this law shall not deal with the collection of premiums, but each company shall be permitted to make such rules and regulations as it may deem just between the company, its agents, and its policyholders; and no bona fide extension of credit shall be construed as a discrimination, or in violation of the provisions of this act.

All policies heretofore issued or which shall hereafter be issued by any insurance company prior to the taking effect of this act, which provide that said policies shall be void for non-payment of premiums at a certain specified time shall be and the same are in full force and effect, provided, that the company or any of its agents have accepted the premium on said policies after the expiration of the dates named in said provision fixing the date of payment.

Sec. 24. The Commissioner of Insurance, upon ascertaining that any insurance company or officer, agent or representative thereof, has violated any of the provisions of this act, may, at his discretion, and with the consent and approval of the Attorney General, revoke the certificate of authority of such company, officer, agent or representative; but such revocation of any certificate shall in no manner affect the liability of such company, officer, agent or representative to the infliction of any other penalty provided by this act, and provided that any action, decision or determination of the Commissioner of Insurance and Banking and the Attorney General in such cases shall be subject to the review of the courts of this State as herein provided.

Sec. 25. Any insurance company affected by this act, or any officer or director thereof, or any agent or person acting for or employed by any insurance company, who, alone or in conjunction with any corporation, company, or person, who shall willfully do or cause to be done, or shall willfully suffer or permit to be done any act,

matter or thing prohibited or declared to be unlawful by this act, or who shall willfully omit or fail to do any act, matter or thing required to be done by this act, or shall cause or willfully suffer or permit any act, matter or thing directed not to be done, or who shall be guilty of any willful infraction of this act, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than three hundred dollars nor more than one thousand dollars for each offense.

Sec. 26. No person shall be excused from giving testimony or producing evidence when legally called upon to do so at the trial of any other person or company charged with violating any of the provisions of this act on the ground that it may incriminate him under the laws of this State; but no person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he may testify or produce evidence under this act, except for perjury in so testifying.

Sec. 27. This act shall not apply to purely mutual or to purely profit-sharing fire insurance companies incorporated or unincorporated under the laws of this State and carried on by the members thereof solely for the protection of their property and not for profit; nor to purely co-operative, inter-insurance and reciprocal exchanges carried on by the members thereof solely for the protection of their property and not for profit.

Sec. 28. Not later than March 15th, after this act shall take effect, and annually thereafter, it shall be the duty of the Commissioner of Insurance for the purpose of reimbursing the State for the amount to be so expended during the current year in carrying out the provisions of this act, to collect from each insurance company affected by this act, which transacted business in this State during the preceding calendar year, or any portion thereof, the proportion of said \$25,000 which the gross premiums collected by said company during such year from persons or upon property located in this State bears to the aggregate amount of gross premiums so collected during such year by all insurance companies affected by this act transacting business in this State; provided, that in computing such gross premium receipts there shall be deducted

therefrom the amount paid out for reinsurance and for return premiums on canceled policies. If, at the end of any year after this act shall take effect it shall be found that the aggregate amount expended in carrying out the provisions of this act during such year has been less than \$25,000, the amount remaining unexpended shall be applied in the reduction of the amount to be collected from said companies for the succeeding year. The amount due under the provisions of this section by each company shall be certified by the Commissioner of Insurance to such company and he shall revoke the certificate of authority of any company which shall fail to pay the same within thirty days after the receipt of such certificate; provided, that the collections from insurance companies provided for in this section shall not be made for any year during which any such company shall be liable under the laws of this State to the payment of an occupation tax at a rate of two and one-half per cent or more of the gross premiums received, less deductions for reinsurance and return premiums on canceled policies.

Sec. 29. If any part of this act be for any reason held unconstitutional it shall not affect any other portion or part of this act.

Sec. 30. Chapter 18 of the General Laws of the Thirty-first Legislature passed by its First Called Session and approved April 19, 1909, entitled, "An Act providing the conditions upon which fire insurance companies shall transact business in this State; and providing for the regulation and control of rates of premiums on fire insurance and to prevent discrimination therein; and to create a fire insurance rating board; and to provide penalties for violation of this act, and declaring an emergency," and all other laws and parts of laws in conflict with this act are hereby repealed.

Sec. 31. The fact that there is now no sufficient law in this State prohibiting unjust discriminations in the collection of fire insurance rates as between citizens of this State; nor protecting citizens in securing reasonable rates, constitutes an emergency and an imperative public necessity requiring that the constitutional rule requiring bills to be read on three several days to be suspended and that this act take effect and be in force from and after its passage, and it is so enacted.

(Senator Ratliff in the chair.)

The above report was read in full, and Senator Senter moved that the report be printed in the Journal and that it be made a special order for Monday morning at the conclusion of the morning call.

Senator Watson offered the following substitute motion for the above motion:

We move the adoption of the report of the Free Conference Committee on the insurance bill for the reason the incoming Governor, O. B. Colquitt, has requested his friends in the Senate to reconsider the resolution of instruction given on yesterday to the members of the Free Conference Committee on the part of the Senate, and to prevent another possible Called Session of the Thirty-first Legislature.

WATSON,
ADAMS.

(Lieutenant Governor Davidson in the chair.)

REFUSE TO RECESS.

Pending discussion on the above motions, Senator Kellie moved that the Senate recess until 2:30 o'clock, which motion was lost by the following vote:

Yeas—14.

Bryan.	Murray.
Greer.	Paulus.
Harper.	Peeler.
Hume.	Ratliff.
Kauffman.	Senter.
Kellie.	Terrell of McLennan.
Meachum.	Terrell of Wise.

Nays—15.

Adams.	Real.
Alexander.	Sturgeon.
Brachfield.	Terrell of Bowie.
Cofer.	Veale.
Holsey.	Ward.
Hudspeth.	Watson.
Mayfield.	Weinert.
Perkins.	

Absent—Excused.

Willacy.

FREE CONFERENCE COMMITTEE REPORT ON SENATE BILL NO. 7.

Action recurred on the Free Conference Committee report on Senate bill No. 7, the question being on the motion by Senator Watson, as a substitute for the motion by Senator Senter. (See above proceedings for motions.)

(Senator Hume in the chair.)

REFUSES TO RECESS.

Senator Terrell of Wise moved that the Senate take a recess until 3 o'clock p. m. today.

The motion was lost by the following vote:

Yeas—11.

Bryan.	Senter.
Hume.	Terrell of McLennan.
Kauffman.	Terrell of Wise.
Murray.	Veale.
Peeler.	Watson.
Perkins.	

Nays—12.

Adams.	Meachum.
Alexander.	Real.
Brachfield.	Sturgeon.
Holsey.	Terrell of Bowie.
Hudspeth.	Ward.
Mayfield.	Weinert.

Absent.

Cofer.	Kellie.
Greer.	Paulus.
Harper.	Ratliff.

Absent—Excused.

Willacy.

FREE CONFERENCE COMMITTEE REPORT ON SENATE BILL NO. 7.

Action recurred on the Free Conference Committee report, the question being on the motion of Senator Senter and Senator Watson's motion therefor.

RECESS.

Senator Hudspeth moved that the Senate recess until 2 o'clock p. m. today.

Senator Peeler moved, as a substitute, that the Senate recess until 3 o'clock p. m. today.

The substitute motion was lost, and the motion to recess until 2 o'clock today was adopted.

AFTER RECESS.

The Senate was called to order by Lieutenant Governor Davidson.

FREE CONFERENCE COMMITTEE REPORT ON SENATE BILL NO. 7.

Action recurred on the Free Conference Committee report on Senate bill No. 7, the question being on the motion

by Senator Senter and Senator Watson's substitute therefor.

The Senate was, on motion of Senator Watson, at ease for fifteen minutes.

The Senate was again called to order by Lieutenant Governor Davidson and action recurred on the Free Conference Committee report on Senate bill No. 7.

Action recurring on the motion by Senator Watson, the Chair ruled same out of order, and Senator Senter withdrew his motion.

Senator Hudspeth having moved the adoption of the report, Senator Watson offered a substitute in writing for same, and the Chair ruled it out of order.

Senator Hudspeth moved the previous question on the motion to adopt the Free Conference Committee report. The motion being duly seconded, was so ordered by the following vote:

Yeas—22.

Adams.	Perkins.
Alexander.	Ratliff.
Brachfield.	Real.
Bryan.	Senter.
Cofer.	Sturgeon.
Greer.	Terrell of Bowie.
Holsey.	Terrell of Wise.
Hudspeth.	Veale.
Mayfield.	Ward.
Meachum.	Watson.
Peeler.	Weinert.

Nays—2.

Hume. Terrell of McLennan.

Absent.

Harper.	Murray.
Kauffman.	Paulus.
Kellie.	

Absent—Excused.

Willacy.

The motion to adopt the Free Conference Committee report on Senate bill No. 7, was then adopted by the following vote:

Yeas—22.

Adams.	Perkins.
Alexander.	Ratliff.
Brachfield.	Real.
Bryan.	Senter.
Cofer.	Sturgeon.
Greer.	Terrell of Bowie.
Holsey.	Terrell of Wise.
Hudspeth.	Veale.
Mayfield.	Ward.
Meachum.	Watson.
Peeler.	Weinert.

Nays—2.

Hume. Terrell of McLennan.

Absent.

Harper.	Murray.
Kauffman.	Paulus.
Kellie.	

Absent—Excused.

Willacy.

Senator Hudspeth moved to reconsider the vote by which the report was adopted, and lay that motion on the table.

The motion to table prevailed.

REASONS FOR VOTING.

I vote "yea" for the Free Conference Committee report on the insurance bill because it surely is a better law than the one now in existence.

TERRELL of Wise.

The proper function of the legislative branch of the government is to enact wise laws. No enactment is to be justified upon the mere ground of "transacting business." It may be safely assumed that no law is wise that is unnecessary. And the supreme test of the merit of a specific enactment is that its passage is a real benefit to the people.

The doubt in this respect should always be resolved against a particular legislative proposal. A proposition "harmless" or "just as good" as existing law, is not entitled to approval of the lawmaking body. There should be at least a demonstrated preponderance of good to be expected from any measure urged for passage. Legislation is at least a serious business; notwithstanding the fact that those engaged in making laws are not infrequently taken as a joke.

That people is most wisely and safely governed that is least hampered in its normal activities by unwise laws. There are many adjustments in human affairs effected without the intervention of the law as such, and interference by statute is not always salutary.

Believing the present insurance bill is dangerous and not based upon sound principles of trade and government, and fearing that the measure is the product of anxiety to escape another Called Session rather than the embodiment of a demonstrated benefit to the people of this State, and believing that it is not the proper function of the State to reach out into the insurance business to the extent authorized under this bill, I have concluded that it was to the best interest of the State that the bill be

not passed, and I have accordingly voted against the measure.

HUME.

In our judgment, the wisest legislation on the subject of insurance would be to encourage, as far as possible by statute, the removal of the causes of fire waste, repeal the present law providing for a Fire Rating Board, give free play to all competitive forces, and rigidly prohibit combinations to fix rates. It is well known that the House will not pass the Senate bill repealing the present law on the subject without the creation of another rating board. The Free Conference Committee report now pending seems to be in some respects an improvement on the existing law, although it contains new elements of trouble. Forced to a choice between two evils, we vote for the one of latest pattern, hoping that it may prove to be the best.

SENTER,
WATSON.

I vote "yea" on this bill solely for the purpose of giving the people in my district, and especially the people of El Paso, some relief from the oppressive burden placed upon them by the present fire insurance law, which, in plain words, is a legalized trust.

This bill that I have just voted for does not meet my ideas in every particular, for my idea was embodied in the original Senate bill permitting a low maximum rate fixed by the board and free competition thereunder. I would have much preferred to have repealed the present obnoxious law without enacting any other to take its place, but after passing a bill to that effect twice through the Senate and same failing of passage both times in the House, I voted for this bill for the reason stated above.

HUDSPETH.

HOUSE BILL NO. 9.

Action then recurred on House bill No. 9. (See former proceedings of today for caption of.)

The question on the bill was on the amendment by Senator Cofer. (See Journal of yesterday for amendment.)

Senator Senter moved that the Senate recess until 8:30 o'clock tonight.

The motion was lost by the following vote:

Yeas—3.

Watson.

Nays—19.

Adams.
Senter.

Alexander.
Brachfield.
Bryan.
Cofer.
Greer.
Holsey.
Hume.
Kauffman.
Mayfield.
Meachum.

Peeler.
Perkins.
Real.
Sturgeon.
Terrell of Bowie.
Terrell of McLennan.
Terrell of Wise.
Ward.
Weinert.

Absent.

Harper.
Hudspeth.
Kellie.

Murray.
Paulus.
Veale.

Absent—Excused.

Willacy.

Senator Watson moved that the Senate recess until 3 o'clock today, but the motion was ruled out of order on a point of order by Senator Alexander.

HOUSE BILL NO. 9.

Action recurred on House bill No. 9, the question being on the amendment by Senator Cofer, offered on yesterday.

RECESS.

Senator Watson moved that the Senate recess for thirty minutes.

The motion was adopted by the following vote:

Yeas—14.

Adams.
Alexander.
Harper.
Hudspeth.
Hume.
Meachum.
Murray.

Peeler.
Perkins.
Real.
Senter.
Terrell of McLennan.
Watson.
Weinert.

Nays—13.

Brachfield.
Bryan.
Cofer.
Greer.
Holsey.
Kauffman.
Mayfield.

Ratliff.
Sturgeon.
Terrell of Bowie.
Terrell of Wise.
Veale.
Ward.

Absent.

Kellie.

Paulus.

Absent—Excused.

Willacy.

AFTER RECESS.

At 3:15 o'clock the Senate was called to order by Lieutenant Governor Davidson.

REFUSE TO ADJOURN.

Senator Watson moved that the Senate adjourn until 10 o'clock Monday morning.

The motion was lost by the following vote:

Yeas—11.

Adams.	Real.
Hudspeth.	Senter.
Meachum.	Terrell of McLennan.
Murray.	Watson.
Peeler.	Weinert.
Perkins.	

Nays—13.

Alexander.	Mayfield.
Brachfield.	Ratliff.
Bryan.	Sturgeon.
Cofer.	Terrell of Bowie.
Greer.	Veale.
Holsey.	Ward.
Kauffman.	

Present—Not Voting.

Harper.

Absent.

Hume.	Paulus.
Kellie.	Terrell of Wise.

Absent—Excused.

Willacy.

HOUSE BILL NO. 9.

Action recurred on House bill No. 9, the question being on the pending amendment by Senator Cofer offered on yesterday.

Senator Sturgeon offered the following amendment to the amendment:

Amend the amendment by striking out the words "if true," on page 125 of the Journal.

ADJOURNMENT.

Senator Perkins moved that the Senate adjourn until Monday morning at 10 o'clock.

The motion prevailed by the following vote:

Yeas—14.

Adams.	Hume.
Greer.	Kauffman.
Harper.	Meachum.
Hudspeth.	Murray.

Peeler.
Perkins.
Real.

Senter.
Watson.
Weinert.

Nays—10.

Alexander.
Brachfield.
Cofer.
Holsey.
Mayfield.

Ratliff.
Sturgeon.
Terrell of Bowie.
Veale.
Ward.

Absent.

Bryan.
Kellie.
Paulus.

Terrell of McLennan.
Terrell of Wise.

Absent—Excused.

Willacy.

APPENDIX.

COMMITTEE REPORT.

Committee Room,

Austin, Texas, September 3, 1910.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on Engrossed Bills have carefully examined and compared

Senate bill No. 10, A bill to be entitled "An Act to establish a prison system and declaring the policy of the State with reference thereto; to provide for the management and control of such prison system; to provide for the control, management and treatment of all prisoners sentenced to the penitentiary; to abolish the leasing and hiring of State prisoners; to provide rules and regulations for the government and conduct of such prison system; to abolish corporal punishment in the prison system; to provide for a Board of Prison Commissioners; to provide for their appointment and defining their powers, duties and authority; to provide for the purchase or sale of real estate by the Prison Commission; to vest title of all real estate owned by the prison system; to provide for the appointment of an auditor and prescribing his duties; prescribing penalties for the violation of this act; repealing Chapters 1, 2, 3, 4, 5, 6, 7 and 8, of Title 79, of the Revised Statutes of 1895, and all laws and parts of laws in conflict with this act; making an appropriation to carry out the provisions of this act, and declaring an emergency,"

And find the same correctly engrossed.

WARD, Chairman.

SENATE BILL NO. 10.

Following is the penitentiary bill as passed by the Senate, and is printed in this Journal by order of the Senate:

A BILL

To Be Entitled

An Act to establish a prison system and declaring the policy of the State with reference thereto; to provide for the management and control of such prison system; to provide for the control, management and treatment of all prisoners sentenced to the penitentiary; to abolish the leasing and hiring of State prisoners; to provide rules and regulations for the government and conduct of such prison system; to abolish corporal punishment in the prison system; to provide for a Board of Prison Commissioners; to provide for their appointment and defining their powers, duties and authority; to provide for the purchase or sale of real estate by the Prison Commission; to vest title of all real estate owned by the prison system; to provide for the appointment of an auditor and prescribing his duties; prescribing penalties for the violation of this act; repealing Chapters 1, 2, 3, 4, 5, 6, 7 and 8 of Title 79 of the Revised Statutes of 1895, and all laws and parts of laws in conflict with this act; making an appropriation to carry out the provisions of this act, and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. That it shall be the policy of this State in the operation of its prison system to so manage and conduct the same that those convicted of violating the law and sentenced to a term in the penitentiary shall have humane treatment and shall be given opportunity, encouragement and training in the matter of reformation.

Sec. 2. The prison system of this State, as referred to in this act, shall include the State penitentiary at Huntsville, the State penitentiary at Rusk, and such other penitentiaries as may hereafter be established, and all farms or camps where State prisoners are or may be kept or worked, together with all property of every character belonging thereto or connected therewith.

Sec. 3. It is hereby declared the policy of this State to work all prisoners within the prison walls, and upon farms owned by the State, and in no event shall

the labor of a prisoner be sold to any contractor or lessee to work on farms or elsewhere, nor shall any prisoner be worked on any farm or otherwise upon shares, or upon any other farm or place other than that owned and controlled by the State of Texas, after January 1, 1914; provided, that all existing contracts for prison labor in existence at the time this act takes effect shall terminate not later than January 1, 1914, and no contract for any prison labor shall be made which would extend beyond January 1, 1914; provided further, that the Board of Prison Commissioners shall change from the system of leasing and hiring out of prisoners at the earliest practicable time.

Sec. 4. To better carry out such policy, the management and control of the prison system of the State of Texas shall be vested in a board to be known as the Board of Prison Commissioners, and for the purpose of this act shall be referred to as the Prison Commission. Said Board of Prison Commissioners shall be composed of three men, to be appointed by the Governor, with the advice and consent of the Senate, whose term of office shall be two years from date of appointment, except those first appointed under this act, whose term of office shall expire on the 20th day of January, 1911; provided, however, that in the event of a change in the Constitution extending the term of office of the Prison Commissioners, the members of said Board of Prison Commissioners then in office shall adjust their terms of office by lot, or in conformance with the provisions of such constitutional amendment without the necessity of further legislative enactment.

Sec. 5. Each member of said Commission shall, within ten days after his appointment, execute a bond with two or more good and sufficient sureties, in the sum of seventy-five thousand dollars, payable to the Governor of this State and his successors in office, and conditioned for the faithful performance of his duties and the strict accounting to the State of all moneys coming into his hands as such Commissioner, the form of which bond shall be prepared by the Attorney General, and the sufficiency of the sureties thereon approved by and the same shall be filed with the Secretary of State. And before entering upon the duties of his office each member of said board shall take and subscribe the oath of office prescribed by the Constitution of this State. And it shall be the duty of the

Attorney General, upon notice of default or failure to perform the duties as contemplated by law by any member of said Prison Commission, to bring suit in any court of competent jurisdiction in Travis county for the forfeiture and collection of said bond.

Sec. 6. Each member of the Board of Prison Commissioners shall receive as compensation for his services the sum of three hundred dollars per month, to be paid at the end of each month; and in addition thereto he shall be allowed all reasonable and necessary traveling expenses actually incurred when traveling on business of the prison system, to be paid together with said salary out of the funds of the prison system, all such expense accounts to be itemized and sworn to in duplicate and approved by the Chairman of the Board of Prison Commissioners, one copy to be kept with the records of the Board of Prison Commissioners and one copy filed with the Comptroller of Public Accounts. Each member of said Board of Prison Commissioners shall reside at Huntsville, in Walker county, which is hereby designated as the headquarters of the prison system, and shall be permitted to occupy the residence houses belonging to the State at Huntsville.

Sec. 7. Each member of said Prison Commission shall devote his entire time to the discharge of the duties of said office, and shall not engage in any other occupation or business during his term of office, nor shall either of the members of said board be directly or indirectly connected with or interested in any contract, sale or purchase of any property or thing whatsoever which may be made during his term of office and in which either the State or the prison system are interested. And any violation of any of the provisions of this section of this act shall be sufficient ground for his removal from office.

Sec. 8. That said Prison Commission shall be vested with the exclusive management and control of the prison system of this State, and shall be held responsible for the proper care, treatment, feeding, clothing and management of the prisoners confined therein, and at all times for the faithful enforcement of the spirit, intent and purpose of the laws and rules governing said system; provided that the Prison Commission shall be held responsible for maltreatment of prisoners, and, if permitted, it shall be grounds for removal from office.

Sec. 9. That the said Prison Commission shall have power to and it shall

be their duty to appoint all necessary officers, all physicians, chaplains, teachers, and all clerical help needed in conducting said prison system, including a secretary of the Prison Commission, and they shall require all appointees, who, in discharging their duties, are charged with handling any funds of the system or State, to execute bond in such amount as may be fixed by the Prison Commission, to be conditioned as required by law for the faithful performance of their duties.

Sec. 10. A majority of said Prison Commission shall constitute a quorum for the transaction of business. The Commissioners shall select one member as chairman and shall designate one member to have supervision over the finances and financial transactions of the prison system, one who shall supervise the feeding, clothing, care and treatment of the prisoners, and one who shall supervise the work of all the officers and employes of the prison system, and who shall also be known and designated as the superintendent of parole, and shall direct the enforcement of any parole law or indeterminate sentence law which may be now or hereafter in force in this State, unless otherwise directed by law. Provided, that each member so designated shall report his actions to the Prison Commission. The provisions of this section are intended to facilitate the work of the Prison Commission and shall not be construed as releasing the full board of the Prison Commissioners any authority or general responsibility for the management of the prison system. The Prison Commission shall keep or cause to be kept in a well bound book a minute of the proceedings of all meetings held by them.

Sec. 11. The Prison Commission shall have the authority at all times to discharge any officer or any employe of the prison system for failure to comply with the rules, regulations or laws governing the prison system, or for any dereliction in duty, or whenever they may deem it to be for the best interests of the service.

Sec. 12. The Prison Commission shall have the power to purchase or cause to be purchased with such funds as may be at their disposal, any lands, buildings, machinery, tools and supplies for the benefit of said prison system, and may establish such factories as in their judgment may be practicable and that will afford useful and proper employment to prisoners confined in the State prison, under such regulations, conditions and

restrictions as may be deemed best for the welfare of the State and the prisoners, it being the purpose of this act to clothe said Board of Prison Commissioners with all power and authority necessary for the proper management of the prison system of this State.

Sec. 13. The Prison Commission shall have power with the approval of the Governor to purchase such land as may, in their judgment, be necessary in the operation of said system, and the employment of prisoners confined in said prison, and in the purchase thereof, they may pay such sum in cash as may be agreed upon with the vendor, and for the unpaid purchase money to become due upon said land, they shall execute to the vendor notes payable in such sum and at such time as may be agreed upon between the parties, and the payment of which shall be secured by a deed of trust upon such land in the usual form, and containing such covenants as may be agreed upon between the parties, and may pledge a sufficient amount of the net revenues of the property so purchased to pay the deferred installments of purchase money thereon, and it shall be expressly provided in the conveyance to said land, the notes executed for the unpaid purchase money and the deed of trust, that the vendor relies alone upon the lien created by the deed of trust upon said land and the net revenues so pledged, and that no personal liability against the Prison Commission or the State of Texas, shall arise out of said transaction beyond said liens; and the purchase money paid originally as well as the installments paid upon the deferred payments, may be paid out of any funds belonging to said prison system. The title to all lands purchased by the Prison Commission under the terms of this act shall be examined, passed upon and approved as good and sufficient by the Attorney General, and all conveyances, notes and trust deeds and other instruments executed under the provisions of this act shall be prepared, passed upon and approved by the Attorney General. The title to all lands so purchased shall rest in the Prison Commission and their successors in office, as trustees for the State.

Sec. 14. The Prison Commission shall buy annually so many acres of land as will in four years, or sooner if practicable (from the taking effect of this act), enable all the prisoners hired out or employed on share or contract farms, and who are not otherwise employed by

the State, to be employed directly on farms belonging to the prison system.

Sec. 15. There is hereby appropriated out of any funds in the State Treasury, not otherwise appropriated, the sum of five hundred thousand dollars, or so much thereof as may be necessary, for the fiscal year beginning September 1, 1910, for the purpose of carrying out the provisions of this act. Such sum hereby appropriated shall be under control and at the disposal of the Prison Commission, as provided in this act; provided, that not more than \$200,000 of the amount herein appropriated shall be expended prior to February 1, 1911. And the remaining three hundred thousand dollars shall not be expended until after said date, nor shall the Board of Prison Commissioners holding office prior to February 1, 1911, incur any obligations to be paid out of said sum of three hundred thousand dollars.

Sec. 16. The Prison Commission is authorized and it shall be its duty to cause to be constructed upon land now belonging to the prison system, and upon such land as may be bought hereafter, all necessary modern fireproof, well ventilated prison buildings, providing a separate cell or room for each prisoner, as far as conditions and the welfare of the prisoner demands, with proper bathing facilities and all necessary sanitary water closets and other sanitary arrangements within such buildings; also sanitary kitchens, dining room, hospitals, school rooms and chapels, and other necessary conveniences for the benefit of the prisoners. The provisions of this section shall be carried out to completion as rapidly as is practicable so that the same shall be completed in the entire prison system within six years from the taking effect of this act.

Sec. 17. The Prison Commission shall have power to sell and dispose of all farm products and the products of all factories connected with the prison system, and all personal and movable property, at such prices and on such terms as may be deemed best by them, and they may, with the approval of the Governor, sell or lease any real estate or other fixed property and appurtenances belonging thereto upon such terms as to them seem best, and upon the sale thereof they shall have power to execute proper conveyances to the title thereto, which instruments of conveyance shall be prepared and approved by the Attorney General. The Prison Commission

shall in the purchase or sale of all real estate, or in the purchase or sale of any machinery or equipment for the prison system exceeding in value the sum of \$5000, advertise in the manner prescribed by the Prison Commission, for bids for such property in at least three daily papers in this State having a general circulation and shall give all such bids received to the public press at least 30 days before any such contract is let.

Sec. 18. On Monday of each week the Prison Commission shall remit to the State Treasurer all moneys received by them as such from whatever source during the preceding week and belonging to the system. The Treasurer shall hold such fund as bailee for the Prison Commission, which fund shall be known as the Prison Commission Account, and he shall give to the Prison Commission a deposit receipt for same, and shall pay out same on draft drawn by the officer designated by Section 23 of this act. The Prison Commission is hereby authorized to draw from the Prison Commission Account in the State Treasury any and all sums of money necessary for the business transactions of the prison system. The Prison Commission is authorized to draw upon the Prison Commission Account with the State Treasurer, such sum or sums of money and at such time, or times, as in their judgment may be necessary for the transaction of the business of the system; provided, they shall not draw for a sum that will give them in hand and in bank subject to disbursement a sum in excess of twenty-five thousand dollars, and provided further, the account of the prison system with the State Treasurer shall in no event be overdrawn and in no event shall the State Treasurer ever permit an overdraft against the Prison Commission Account to be paid. On December 1st of each year the State Treasurer shall ascertain the interest earned by the fund belonging to the prison system from the State depositories, and place said sum to the credit of the Prison Commission Account and send deposit receipt to the Prison Commission.

Sec. 19. The Prison Commission may at any time issue such orders and prescribe such rules and regulations for the government of the prison system of this State, not inconsistent with the law, as it may deem proper, or to provide such details not embraced herein, and for such contingencies as may at any time

arise concerning the management of the prison system or its proper and effective operation, and such rules and regulations shall be made with a view of carrying out the general principles on which the penal laws are founded, and for which the prison system is established, and shall be binding on all underofficers, employes, and all persons whomsoever in any way connected with the State prisons or its management, or its prisoners within and without the walls. The Prison Commission shall have all laws, rules, and regulations of the prison system printed in pamphlet form for the information and guidance of all connected with the management of the prison system, and such parts of said rules as relate to the duties of subordinate officers and prisoners shall be printed in suitable form and posted in conspicuous places about the prison, or wherever prisoners may be confined, for the information of all concerned. All officers, employes and guards having supervision of prisoners shall be furnished with a copy of the law, rules and regulations governing the prison system and shall give a receipt therefor, and the Prison Commission shall from time to time require examination of such officers, employes and guards as will ascertain the knowledge of such law, rules and regulations, and any such officer, employe or guard, who shall fail to familiarize himself with the law, rules and regulations of the prison system shall be dismissed from the service.

Sec. 20. It shall be the duty of some member or members of the Prison Commission to spend at least one whole day each month at each prison, camp or farm where prisoners are kept or worked, and to carefully inspect same with reference to the food, clothing and treatment of the prisoners, the general sanitary conditions existing at such prisons, camps or farms, reporting upon such conditions, the efforts at reformation, the general conduct of all officers and employes connected therewith, and punishment administered for the enforcement of prison discipline, making such reports to the full Board of Prison Commissioners; provided, that the various prisons, camps and farms where prisoners are kept, may be divided for the purpose of this inspection between two or more members of the Prison Commission, or such other person as may be designated by the Prison Commission.

Sec. 21. It shall be the duty of the Prison Commission to make suitable provision and regulation for the safe and speedy transportation of prisoners from counties where sentenced to the penitentiaries at Huntsville by the sheriffs of such respective counties if such sheriffs are willing to perform such services as cheaply as said Commission can have it done otherwise. Said transportation shall be on State account and in no instance shall the prisoners be carried direct from the county jails to the State farms, but shall first be carried to the penitentiary at Huntsville where the character of labor which each prisoner may reasonably perform shall be determined.

Sec. 22. The Prison Commission shall cause to be made annually, on the 1st day of December, a full and complete inventory of all lands, buildings, machinery, tools, live stock, and all other property of every description, belonging to the prison system, and shall cause to be set opposite each item, the book value of the same so as to afford an easy comparison with the previous annual statement. And the Prison Commission shall cause to be kept in the accounting department of the prison system, a system of books showing a separate account with each industry and farm and for the system as a whole, showing the losses, profits, and net earnings of each industry and farm connected with the system and shall make a report of the same annually on the 1st day of December, to the Governor, which report shall be published by the Governor in a sufficient number of copies to give general publicity to such report; such report to include the rules and regulations in force for the management of said system and the methods of dealing with the convicts thereof.

Sec. 23. The member of the Prison Commission designated by the board to have supervision over the finances and financial transactions of the prison system shall keep, or cause to be kept, correct and accurate accounts of each and every financial transaction of the prison system, including all receipts and disbursements of every character. He shall receive and receipt for all money paid to the Prison Commission for every source whatsoever, and shall sign all vouchers or warrants authorizing the payment or disbursement of any sum or sums on account of the prison system, and no money shall be paid out on any

account of the prison system except upon a warrant or voucher signed by him. He shall keep full and correct accounts with each industry, department and farm, and with all firms, persons or corporations having financial transactions with the prison system. He shall have power to require all necessary reports from any department, officer or employe at stated intervals. All deposits of prison funds with banks shall be kept in the name of the officer in his official capacity, and all funds of the prison system shall be kept separate from private funds. Such accounts and clerical assistance as may be necessary to carry out the provisions of this section shall be provided by the Prison Commission, in order that a full, complete and correct account may be kept of all financial transactions of the prison system. In the absence of such officer, one of the Prison Commissioners may sign such receipts, warrants or vouchers.

Sec. 24. On the taking effect of this act, and annually thereafter, there shall be appointed by the Comptroller of Public Accounts, the Attorney General and Secretary of State, a permanent auditor for the prison system, who shall hold his office for a term of one year, subject to discharge at any time as hereinafter provided. It shall be the duty of such auditor to audit all accounts, vouchers, pay rolls and all other business transactions of the prison system, and to check all property, material and supplies received and disposed of by or distributed within the prison system, and he shall make a full report thereof to the Governor on the 1st day of December of each year. Such auditor shall be subject to discharge at any time by the Comptroller of Public Accounts, Attorney General and Secretary of State, for any incompetency, neglect, failure or refusal to discharge the duties of his office or for any wrongful conduct that in the judgment of the Comptroller of Public Accounts, Attorney General and Secretary of State renders him unfitted for said office, and in case of the discharge or resignation of any auditor another shall be appointed. During the term of his service such accountant shall be paid a monthly salary of two hundred dollars per month and all actual and necessary traveling expenses, to be paid at the end of each month out of any moneys belonging to the prison system, such traveling expenses to be evidenced by an itemized sworn statement by the auditor, filed with the board.

Sec. 25. Each member of the Board of Prison Commissioners in the discharge of his duties is authorized to administer oaths, to summon and examine witnesses, and take such other steps as he deems necessary to ascertain the truth of any matter about which he may have the right to inquire.

Sec. 26. Within a reasonable time, and not later than six months after the taking effect of this act, the Prison Commission shall abolish striped or checked clothes for prisoners, except as a mode of punishment for the violation of prison discipline, substituting therefor some suitable uniform.

Sec. 27. The Prison Commission shall, as soon as practicable, provide at each prison, farm and camp where prisoners are kept or worked, schools for instruction of prisoners in elementary branches of the English language and industrial education, music and such other instruction as they may prescribe, and they shall employ such number of competent teachers to instruct the prisoners in the same as in the judgment of the Commission may seem necessary, and the Prison Commission shall make reasonable rules and regulations whereby the prisoners may attend such school. The Prison Commission shall prescribe and furnish to the prisoners suitable books and other reading matter, and to this end may establish and operate among the prisoners a circulating library and may adopt such other means of distributing among the prisoners good and wholesome literature as in the judgment of the Prison Commission will best enable the prisoners to avail themselves of the same.

Sec. 28. The Prison Commission shall provide for religious services at prisons, farms and camps where prisoners are kept or worked. They shall employ such chaplains as may be necessary to afford all prisoners an opportunity to attend at least two religious services each month, said chaplains to devote their entire time to religious and moral learning and education of the prisoners under their care, teaching them the principles and practice of every Christian and moral duty; providing that chaplains may also be teachers as provided for in this act.

Sec. 29. If any member of the Board of Prison Commissioners shall be guilty of malfeasance or nonfeasance in office or shall become incapable or unfit to discharge his official duties, or shall willfully fail, refuse or neglect to discharge

the duties of his office, such member shall be subject to removal from office as provided by Article 3528, Revised Statutes of 1895.

Sec. 30. The Prison Commission shall, except as provided in this act, fix the salaries of all officers and employes of the prison system upon such basis as the labor and ability of the officer or employe entitles him to, such salary to be paid monthly at the end of each month. They shall pay to those employed as guards of the convicts a salary of not less than thirty-five dollars per month; provided, that for meritorious service and adaptability to the work, the Prison Commission may increase the pay of any guard to an amount not to exceed fifty dollars per month. No person shall be employed as a guard to guard convicts who is not of good moral character and who is not able to read and write and has not a fair knowledge of the English language, and the Prison Commission may provide such other qualifications as they may deem expedient; provided, that no person shall be employed as a guard who is in any way addicted to the use of alcoholic or intoxicating liquors, and the Prison Commission shall require all officers and employes connected with the prison system to familiarize themselves with and conform to the rules and regulations and laws governing the prison system of this State; provided, the Prison Commission shall require all officers and employes connected with the prison system of this State to take and subscribe to the oath of office prescribed by the Constitution.

Sec. 31. The Prison Commission shall see that all State prisoners are fed good and wholesome food, properly prepared, under wholesome, sanitary conditions and in sufficient quantity and reasonable variety, and they shall hold all underofficers performing this work strictly to account for any failure to carry out this provision. That the food may be properly prepared, the Prison Commission shall provide for the training of prisoners as cooks.

Sec. 32. The Prison Commission shall require at the end of each month reports showing fully the condition and treatment of the prisoners and the changes in the prison population during the month, including itemized statements of all different items of food, clothing and utensils used and on hand in each of the units of the prison sys-

tem, and such other matters as they may require.

Sec. 33. The Prison Commission shall keep a register of all prisoners belonging to the prison system, showing the number of each prisoner, giving the aliases, name, age, height, color of hair, color of eyes, complexion, marks on person, sex, nativity, residence, county where convicted, offense of which convicted, date of sentence, date of receipt, previous occupation and habits, if known, and may adopt such other means of identification as they may deem proper and necessary. They shall keep a record of the general conditions and conduct of each prisoner, noting all punishments, forfeitures, bad conduct, changes and incidents of importance that may occur during his confinement, and to the end that complete records may be kept, they may require from all underofficers such monthly and other reports as they may deem proper. They shall issue discharges to such prisoners as are entitled thereto by expiration of sentence or otherwise.

Sec. 34. That persons confined in the State prisons of this State may have every opportunity and encouragement for moral reform, it shall be the duty of the Prison Commission in addition to the requirements of this act, to provide every reasonable and practicable means for the encouragement of such reform. To this end, the Prison Commission shall provide for the classification of all prisoners, separating them into the following classes: In the first class shall be included young men, first offenders, those appearing to be corrigible, or less vicious than the others, and likely to observe the laws and to maintain themselves by honest industry after their discharge. In the second class shall be included those appearing to be less corrigible, or more vicious, but content to work and reasonably obedient to prison discipline as not to seriously interfere with the productiveness of their labor, or with the labor or conduct of those with whom they may be employed. In the third class shall be included those appearing to be incorrigible, or so insubordinate or so vicious in their nature as to seriously interfere with the labor and moral development of those with whom they must come in contact. The Prison Commission shall make rules and regulations for the promotion and reduction of the prisoners from one class to another and shall transfer them from one class to another

from time to time as they may seem to merit promotion or reduction.

The prisoners in each of the classes hereinbefore named shall be kept in or upon different or separate prisons or farms. Any prisoner upon entering the prison system shall be assigned to one of its institutions according to his class, as hereinbefore provided, and shall be entered in said institution in a neutral grade which shall be known as grade No. 2, and in which he shall be furnished with a suitable uniform designated for that grade. The Prison Commission shall adopt rules for a higher grade which shall be known as grade No. 1, as a reward for obedience to prison discipline and good conduct, and shall provide a suitable uniform for this grade; and they shall provide for a lower grade as a punishment for misconduct and violation of prison discipline, which grade shall be known as No. 3, and in which the prisoner shall be clothed in stripes. The uniforms for grades Nos. 1 and 2 shall not be stripes. The Prison Commission shall provide rules for promotion of prisoners from any grade to another for good conduct and obedience to prison discipline and for demotion of prisoners for misconduct and violation of prison discipline. The Prison Commission shall provide specifically for the extension or denial of privileges for the various grades herein provided.

That prison discipline may be enforced the Prison Commission may adopt such modes of punishment as may be necessary, such punishment being always humane, but whipping and placing prisoners in stocks shall be prohibited. When not at work, white and negro prisoners shall be kept separate.

Sec. 35. All female prisoners shall be kept separate and apart from the male prisoners. Where practicable the Prison Commissioner shall keep the female prisoners upon a separate farm or at a separate prison from the male prisoners and shall provide reasonable rules and regulations for the government of the same.

Sec. 36. The Prison Commission shall provide such labor for said female prisoners as in their judgment they can reasonably perform, but the matron over such female prisoners shall at any time have the authority to say whether the physical condition of said female prisoner is such they they can perform physical labor. The matron or matrons so employed to look after the welfare of the female prisoners shall reside at

the place where female prisoners are kept.

Sec. 37. The Prison Commission shall also keep the white female prisoners separate and apart from the negro female prisoners, and shall select and place over said female prisoners a matron or matrons, whose duty it shall be to give her personal attention to the welfare of such female prisoners.

Sec. 28. At the place where female prisoners are kept, none but married men shall be employed as guards and the houses for such guards and their families shall be provided by the State in which the families of the guards shall live, said houses not to be situated further than 100 yards from the main prison building where such female prisoners are kept.

Sec. 39. If a female prisoner be received with an infant, or if any child be born in the penitentiary, the child shall be permitted to remain with its mother until three to six years of age, in the discretion of and as prescribed by the Prison Commission.

Sec. 40. Every prisoner who shall become entitled to a diminution of his term of sentence by good conduct shall receive compensation from the earnings of the State prison to the amount of 10 cents per day for the time said prisoner is confined in prison; provided, that whenever any prisoner shall forfeit any part of his good time for misconduct or violation of the rules or regulations of the prison, he shall forfeit out of the compensation allowed under this section 25 cents per day for each day of such good time so forfeited; provided, that when such prisoner has a family or relatives within the second degree by consanguinity or affinity, dependent upon him, such saving shall be paid semi-annually to such of them as may be designated by the prisoner, but if he have no such dependent relatives, then said saving shall be paid to him upon his discharge from prison.

Sec. 41. No prisoner shall be worked on Sunday except in cases of extreme necessity, and all prisoners so required to work on Sunday shall be paid out of the funds of the prison system the sum of \$1 per day for each Sunday so worked.

Sec. 42. The various provisions of this act are designed to secure to the prisoners humane treatment, suitable moral instruction, to provide for their health, and to extend to them such comforts and privileges as may be consistent with their situation, and at the

same time to require of them a due attention to their various duties and a strict observance of the discipline, rules and regulations of the prison.

Sec. 43. In order to encourage prison discipline a distinction may be made in the treatment of prisoners so as to extend to all such as are orderly, industrious and obedient comforts and privileges according to their deserts. The rewards to be bestowed on prisoners for good conduct shall consist of such relaxation of strict prison rules and extension of social privileges as may not be inconsistent with proper discipline. Commutation of time for good conduct shall be granted by the Prison Commission, and the following deductions shall be made from the term or terms of sentences when no charge of misconduct has been sustained against a prisoner, viz.: Two days per month off the first year of sentence; three days per month off the second year of sentence; four days per month off the third year of sentence; five days per month off the fourth year of sentence; six days per month off the fifth year of sentence; seven days per month off the sixth year of sentence; eight days per month off the seventh year of sentence; nine days per month off the eighth year of sentence; ten days per month off the ninth year of sentence; fifteen days per month off the tenth year, and all succeeding years of sentence. A prisoner under two or more cumulative sentences shall be allowed commutation as if they were all one sentence. For each sustained charge of misconduct in violation of any rule known to the prisoner in any year of the term the commutation allowed for one month of such year may be forfeited, for any sustained charge of escape or attempt to escape, mutinous conduct or other serious misconduct, all the commutation which shall have accrued in favor of the prisoner up to that day shall be forfeited, unless in case of escape, the prisoner voluntarily returns without expense to the State, such forfeiture may be set aside by the Prison Commission. For extra meritorious conduct on the part of any prisoner, he shall be recommended to the favorable consideration of the Governor for increased commutation or pardon, and in the case of any prisoner who shall have escaped and been captured, part or all of his good time thereby forfeited may be restored by the Prison Commission, if in their judgment his subsequent conduct entitles him thereto.

Sec. 44. Hereafter life or long-term

prisoners who have actually served fifteen years and have no sustained charge of misconduct and have a good prison record, and who shall be favorably recommended to the Governor, may receive at the hands of the Governor a reasonable commutation of sentence, and if a life sentence is commuted to a term of years, then such convict shall have the benefit of the ordinary commutation as if originally sentenced for a term of years, except the Governor shall otherwise direct; provided, however, that all convicts in this State, who had prior to September 1, 1910, been convicted and confined in the penitentiary of this State for a term of fifteen years or more, and are now so confined shall, upon the taking effect of this act, be paroled by the Board of Prison Commissioners, and shall be allowed to go upon parole outside the buildings and jurisdiction of the penitentiary authorities; provided, however, that the provisions of this act shall apply to all convicts except those convicted of rape or assault to rape, those convicts who have heretofore been convicted of a felony in this State more than twice; and provided further, that should any convict paroled under this act be hereafter convicted in the courts of this State of any felony and sentenced to the penitentiary of this State, that said convict shall forfeit all of the rights of said convict as herein provided for, and shall hereafter be treated as an escaped convict, owing service to the State, and shall be liable, when so convicted, to serve out the unexpired period of time of his sentence originally entered against him, and the time from the date of his parole to the date of his subsequent conviction shall not be counted as any part or portion of the time served.

Sec. 45. Suitable clothing of substantial material, uniform make and reasonable fit, and such footwear as will be substantial and comfortable shall be furnished the prisoners, and no prisoner shall be allowed to wear other clothing than that furnished by the prison authorities, except in case of extra meritorious conduct only, the Prison Commission may allow the prisoner to wear citizen underwear. Sufficient food of wholesome quality and variety and wholesomely prepared shall be furnished to all, and such provisions shall be made for serving the food to prisoners as will tend to encourage and elevate them. It shall be the duty of every officer charged with the preparation and serving of food to the prisoners to post in the dining room each Monday morning for the coming

week the bill of fare for that week, and the rules promulgated by the Prison Commission shall prescribe the quality, kind and variety of food to be furnished. Prisoners shall not be allowed spirituous, vinous or malt liquors, except upon the prescription of the physician.

Sec. 46. Prisoners shall be kept at work under such rules and regulations as may be adopted by the Prison Commission, provided that no prisoner shall be required to work more than ten hours per day, except in case of an extreme and unavoidable emergency, which time shall include the time spent in going to and returning from their work, but not to include the intermission for dinner which shall not be less than one hour. And in case of such extreme and unavoidable emergency said prisoner shall receive out of the funds of the prison system the sum of 10 cents per hour for such work so performed more than ten hours per day. In going to and returning from work prisoners shall not be required to travel faster than a walk. No greater amount of labor shall be required of any prisoner than his physical health and strength will reasonably permit, nor shall any prisoner be placed at such labor at the prison physician may pronounce him unable to perform. No prisoner upon his admission to the prison shall be assigned to any labor until first having been examined by the prison physician. Any officer or employe violating any provision of this section shall be dismissed from the service.

Sec. 47. Prisoners who have been reported by the physician or other officer in charge as in a condition of health which requires their removal to some other place, shall be accordingly removed.

Sec. 48. Prisoners when received into the penitentiary shall be carefully searched. If money be found on the person of the prisoner, or received by him at any time, it shall be taken in charge by the Prison Commission and placed to the prisoner's credit, and expended for the prisoner's benefit on his written order, and under such restrictions as may be prescribed by law or the rules. Any officer or employe having charge of a prisoner's money who misappropriates the same or any part thereof, shall be deemed guilty of a felony and upon conviction thereof shall be confined in the penitentiary for a term of not more than five years.

Sec. 49. If any prisoner shall die

while in prison, the officer in charge of the prisoner at the time of his death shall immediately report the same to the Prison Commission, and, if he knows the address or place of residence of any relative within the third degree, either by consanguinity or affinity, shall also notify by wire said relative of the death of such prisoner, and if the relative of such prisoner claim the body or will take charge of same, then the body of such prisoner shall be turned over to such relative. If the residence and address of the relative of such prisoner is unknown, such prisoner shall be decently buried and the grave marked by a board with the name of said prisoner, date of death, age, if known, and the county from which sentenced inscribed thereon. If the body of such prisoner is not claimed by the relatives, the Prison Commission shall at once notify the county judge of the county from which the prisoner was sentenced of his death, the date and cause of death and place of burial. The Prison Commission shall cause to be made and kept a record of the deaths of prisoners and certified copies of same made by the custodian thereof shall be admissible in evidence under the rules of law applying to official records. Any officer or employe of the prison system of whom any duties are required by this section, who shall fail to discharge such duties, shall be guilty of a misdemeanor and upon conviction shall be fined in any sum not exceeding five hundred dollars.

Sec. 50. The Prison Commission, or other person in charge of prisoners, upon the death of any prisoner under his care and control, shall at once notify the nearest justice of the peace, and it shall be the duty of such justice of the peace, when so notified of the death of such prisoner, to go in person and make a personal examination of the body of such prisoner, and said justice of the peace shall reduce to writing the evidence taken during such inquest and shall furnish a copy of the same to the Prison Commission and a copy of the same to the district judge of the county in which said prisoner died, and the copy so furnished to said district judge shall be turned over by the district judge to the succeeding grand jury, and the said judge shall charge the grand jury if there should be any suspicion of wrong-doing shown by the inquest papers to thoroughly investigate the cause of such death. Any officer or employe of the prison system

having charge of any prisoner at the time of the death of such prisoner, who shall fail to immediately notify a justice of the peace of the death of such prisoner, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars, and by confinement in the county jail not less than sixty days nor more than one year.

Sec. 51. The Prison Commission shall provide for competent medical attention for all prisoners and shall establish rules whereby all physicians shall be required to keep a record of all cases of sickness, accident or injury which they treat. The physicians so employed shall be reputable practicing physicians of not less than two years of experience in practice. Each physician employed in the prison system shall at the end of each month file with the Prison Commission a report in writing, subscribed and sworn to by him, which report shall state the name, color and sex of each prisoner treated, or examined by him during said month, the malady or disease with which each was afflicted, and if any shall be suffering with wounds or injuries inflicted by accident or some individual, he shall state the nature and extent of said injuries, by whom and by what means inflicted, or how the same occurred, and all such other information concerning said matters, and the condition of each prisoner treated or examined by him during said months, as he may possess; provided further, that for a failure to make such report or any false statement knowingly made by any such physician in any such report he shall be prosecuted for the offense of perjury or false swearing, as provided by law.

Sec. 52. The Prison Commission shall also provide a competent dentist or dentists, whose duty it shall be to care for the teeth of the prisoners; such dentist or dentists shall at the direction of the Prison Commission visit the various places where prisoners are kept or worked at such intervals as may be prescribed.

Sec. 53. When a prisoner is entitled to a discharge from prison he shall be furnished with a written or printed discharge from the Prison Commission, with seal affixed, signed by the Chairman of the Board of Prison Commissioners, giving prisoner's name, date of sentence, from what county sentenced, amount of commutation received, if

any, and such other description as may be practicable. He shall be furnished with a decent outfit of citizen's clothing of reasonably good quality and fit, two suits of underwear, five dollars in money in addition to any money held to his credit and unredeemable and non-transferable railroad transportation to the nearest depot from whence sentenced; but, if such prisoner prefers, he may receive such transportation to any other point in this State designated by him.

Sec. 54. The Governor, and all other members of the executive and judicial departments of the State, and members of the Legislature, shall be admitted into the prisons, camps and other places where prisoners are kept or worked, at all proper hours, for the purpose of observing the conduct thereof, and may hold conversation with the convicts, apart from all prison officers. Other persons may visit the penitentiary under such rules and regulations as may be established.

Sec. 55. The Prison Commission, with the Governor's approval, may offer such reward for the apprehension of an escaped prisoner, not exceeding one hundred dollars, exclusive of expense of delivery, as may be fixed by the Prison Commission and to be paid as directed by the Prison Commission.

Sec. 56. Any officer or employe of the prison system who shall fraudulently convert to his own use and benefit any food, clothing, or other property belonging to or under control of the prison system, shall be guilty of theft and upon conviction be punished as prescribed by law.

Sec. 57. Any officer, agent or employe in any capacity connected with the prison system of this State, who shall be financially interested either directly or indirectly in any contract for the furnishing of supplies or property to the prison system, of the purchase of supplies or property for the prison system, or who shall be financially interested in any contract to which said prison system is a party or who shall knowingly and fraudulently sell or dispose of any property belonging to said prison system below its reasonable market value, or who shall be financially interested in any other transaction connected with the prison system, shall be guilty of a felony, and upon conviction thereof shall be punished by confinement in the State penitentiary for a term of not less than two years nor more than five

years, and each transaction shall constitute a separate offense.

Sec. 57a. Any officer, agent or employe in any capacity connected with the prison system of this State, who shall purchase any supplies or any property for the prison system, or shall make any contract for furnishing supplies or property for the prison system, or shall sell any State property to, or shall make any other kind of a contract for said prison system with any person who is related to said officer, agent or employe by affinity within the second degree or by consanguinity within the third degree shall be guilty of a felony, and upon conviction thereof shall be punished by confinement in the State penitentiary for a term of not less than two years nor more than five years, and each transaction shall constitute a separate offense.

Sec. 58. Any sergeant, guard or other officer or employe of the prison system of this State who shall inflict any punishment upon a prisoner not authorized by the rules of the prison system shall be guilty of an assault and upon conviction thereof shall be punished as prescribed by law, and it shall be the duty of the Prison Commission to make complaint before the proper officer of any county in which such assault was committed upon such prisoner. In all cases, civil and criminal, a convict, whether serving term in prison or after such imprisonment shall have terminated, shall be a competent witness, and when so testifying, evidence shall be admissible to show that such witness is or was a convict, and the nature of the offense of which he was convicted.

Sec. 59. No gambling shall be permitted at any prison, farm or camp where prisoners are kept or worked. Any officer or employe knowingly permitting gambling at any such prison, farm or camp shall be immediately dismissed from the service.

Sec. 60. The Prison Commission shall provide a seal whereon shall be engraved in the center a star of five points and the words "Board of Prison Commissioners of Texas" around the margin, which seal shall be used to attest all official acts.

Sec. 61. The Prison Commission by, and with the consent of the Governor, shall have the power to work convicts on public works, when they can not employ them on the State farms or in the walls by reason of some unforeseen calamity, such as a failure of crops, or the de-

struction of crops by wind or flood. When convicts are worked on public works owned by the State or a subdivision of the State, the humane provision of this act shall be strictly complied with.

Sec. 62. Chapters 1, 2, 3, 4, 5, 6, 7 and 8, Title 79 of the Revised Statutes of 1895, relating to penitentiaries and their management, and all laws and parts of laws in conflict herewith are hereby repealed.

Sec. 63. The fact that there is urgent demand for a general revision of the laws governing the penitentiaries of this State, creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended and that this act take effect from and after its passage, and it is enacted.

FIFTEENTH DAY.

Senate Chamber,
Austin, Texas,

Monday, September 5, 1910.

Senate met pursuant to adjournment, Lieutenant Governor A. B. Davidson presiding.

Roll call, quorum being present, the following Senators answering to their names:

Adams.	Murray.
Alexander.	Paulus.
Brachfield.	Peeler.
Bryan.	Ratliff.
Cofer.	Real.
Greer.	Senter.
Harper.	Terrell of Bowie.
Holsey.	Terrell of McLennan.
Hudspeth.	Terrell of Wise.
Hume.	Ward.
Kellie.	Watson.
Mayfield.	Weinert.
Meachum.	

Absent.

Kauffman.	Veale.
Perkins.	Willacy.
Sturgeon.	

Prayer by the Chaplain, Rev. H. M. Sears.

Pending the reading of the Journal of Saturday, on motion of Senator Kellie, the same was dispensed with.

The Chair called the regular order of business, and there being no business under this head, the Chair declared the morning call concluded.

HOUSE BILL NO. 9.

The Chair laid before the Senate, on second reading and pending business,

House bill No. 9, A bill to be entitled "An Act defining 'bills of lading' and defining the word 'carrier' as these words are used in this act; providing that it shall be the duty of carriers, their officers and agents to issue negotiable bills of lading or straight non-negotiable bills of lading at the request of the shipper, between certain places prescribed in this act, and defining negotiable or order bills of lading and non-negotiable or straight bills of lading, and prescribing certain requirements for bills of lading; making all negotiable bills of lading negotiable by indorsement and delivery in the same manner as bills of exchange or promissory notes, and prohibiting the placing upon negotiable bills of lading any terms which would, in any manner, limit their negotiability; prescribing how bills of lading shall be issued, and prohibiting the issuance of negotiable bills of lading in parts or sets; providing that all carriers shall keep posted up in certain places a written instrument authorizing their agents to sign bills of lading; prescribing the duties of carriers and their liability for failure to take up and cancel negotiable bills of lading when the goods or a part thereof have been delivered; prescribing that a court of competent jurisdiction may order goods delivered when negotiable bills of lading have been lost by the giving of a bond by the holder of the lost bill of lading, under certain conditions; prescribing certain duties of local station agents of carriers; prescribing and defining the duties and liabilities of carriers with reference to the consignee in a straight or non-negotiable bill of lading, and to the holder of an order or negotiable bill of lading, and providing that the carrier shall be estopped to deny the receipt of goods described in a bill of lading, or vary the description thereof, as contained in the bill of lading under certain conditions named in this act; providing that the carrier shall not be liable under the provisions of this act when the goods are taken from his custody by legal process or sold to satisfy the carrier's lien, or sold under the provisions of the law; creating and defining certain criminal offenses for the violation of the provisions of this act, and prescribing penalties therefor; creating and defining certain criminal offenses with reference to the issuance or negotiation of bills of